

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:23-cv-00004-MR-WCM**

**CHEVY BOOK, CHRISTIAN BOOK,
DARIUS T. GIPSON, DAMIEN A.
BARRIOS, JAMES O. KING, MELVIN
LAVALL, SR., MELVIN LAVALL, JR.,
LARICIA LEDENT, KARA BULLOCK,
KAREN PETTY, BYRON
RICHARDSON, and FREDERICK
RICHARDSON,**

Plaintiffs,

vs.

**INDUSTRIAL SERVICES GROUP,
INC., d/b/a Universal Blastco, and
BLUE RIDGE PAPER PRODUCTS
LLC, d/b/a Evergreen Packaging,**

Defendants.

ORDER

THIS MATTER is before the Court on the “Motion to Dismiss Pursuant to Rule 12(b)(6)” filed by the Defendant Industrial Services Group, Inc., d/b/a Universal Blastco (“Universal Blastco”) [Doc. 32] and the Magistrate Judge’s Memorandum and Recommendation [Doc. 61] regarding the disposition of that motion.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, the Honorable W. Carleton Metcalf, United States Magistrate Judge, was designated to consider the above-referenced motion and to submit a recommendation for its disposition.

On September 25, 2023, the Magistrate Judge filed a Memorandum and Recommendation in this case containing conclusions of law in support of a recommendation regarding the pending motion. [Doc. 61]. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections has now expired, and no written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's recommendation regarding the pending motion.

IT IS, THEREFORE, ORDERED that the Memorandum and Recommendation [Doc. 61] is **ACCEPTED**, and Universal Blastco's Motion to Dismiss [Doc. 32] is **GRANTED** as follows:

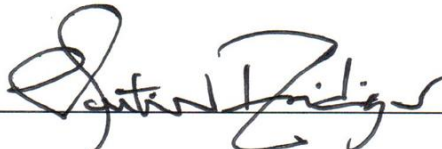
(1) Plaintiff Damien A. Barrios' claim for negligent infliction of emotional distress is **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction; and

(2) All other Plaintiffs' claims for negligent infliction of emotional distress are **DISMISSED WITH PREJUDICE** for failure to state a claim.

The Clerk of Court is respectfully directed to close this civil action.

IT IS SO ORDERED.

Signed: November 6, 2023



Martin Reidinger
Chief United States District Judge

